

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
AUG 22 2019
Clerk, U.S. Courts
District Of Montana
Missoula Division

THOMAS E. TUCKER, JR.,

Petitioner,

CV 18-165-M-DLC

vs.

ORDER

LYNN GUYER, WARDEN OF
MONTANA STATE PRISON, TIM
FOX, MONTANA ATTORNEY
GENERAL,

Respondents.

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations in this case on May 2, 2019, recommending that Petitioner Thomas E. Tucker, Jr.'s petition for a writ of habeas corpus be denied and dismissed with prejudice. (Doc. 10 at 2, 16.) Tucker filed an objection and is entitled to de novo review of those findings and recommendations to which he has specifically objected. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000) (citations omitted). “A party makes a proper objection by identifying the parts of the magistrate’s disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result.” *Montana Shooting Sports Ass’n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).


Here, Tucker’s objection does no more than provide an abbreviated restatement of the arguments already considered by Judge Lynch. “It is not sufficient for the objecting party to merely restate arguments made before the magistrate or to incorporate those arguments by reference.” *Id.* Congress created magistrate judges to provide district judges “additional assistance in dealing with a caseload that was increasing far more rapidly than the number of judgeships.” *Thomas*, 474 U.S. at 153. There is no benefit to the judiciary “if the district court[] is required to review the entire matter de novo because the objecting party merely repeats the arguments rejected by the magistrate. In such situations, this Court follows other courts that have overruled the objections without analysis.” *Montana Shooting Sports Ass’n*, 2010 WL 4102940, at *2 (internal quotation marks and citation omitted). Consequently, reviewing for clear error and finding none,

IT IS ORDERED that Judge Lynch's Order and Findings and Recommendations (Doc. 10) are ADOPTED IN FULL and Tucker's Petition (Doc. 1) is DENIED and DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court should be directed to enter by separate document a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 22nd day of August, 2019.



Dana L. Christensen, Chief Judge
United States District Court